

# Pension Distribution Answer Book

---

*2014 Edition*

Melanie N. Aska  
Scott D. Miller  
Carol R. Sears

---



Wolters Kluwer  
Law & Business

# Pension Distribution Answer Book

---

*2014 Edition*



Melanie N. Aska  
Scott D. Miller  
Carol R. Sears

---



Wolters Kluwer  
Law & Business

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher and the author(s) are not engaged in rendering legal, accounting, or other professional services. If legal advice or other professional assistance is required, the services of a competent professional should be sought.

—From a *Declaration of Principles* jointly adopted by  
a Committee of the American Bar Association and  
a Committee of Publishers and Associations

Copyright © 2014 CCH Incorporated. All Rights Reserved.

No part of this publication may be reproduced or transmitted in any form or by any means, including electronic, mechanical, photocopying, recording, or utilized by any information storage or retrieval system, without written permission from the publisher. For information about permissions or to request permissions online, visit us at [www.aspenpublishers.com/licensing/default.aspx](http://www.aspenpublishers.com/licensing/default.aspx), or a written request may be faxed to our permissions department at 212-771-0803.

Published by Wolters Kluwer Law & Business in New York.

Wolters Kluwer Law & Business serves customers worldwide with CCH, Aspen Publishers and Kluwer Law International products.

Printed in the United States of America

ISBN: 978-1-4548-2530-2

1 2 3 4 5 6 7 8 9 0



---

# List of Questions

## Chapter 1 In-Service Distributions

### Profit Sharing Plans

Q 1:1	What are the general rules for in-service distributions from profit sharing plans? .....	1-2
Q 1:2	In applying the withdrawal rules, what is considered a "fixed number of years"? .....	1-2
Q 1:3	Are there any exceptions to the two-year rule for withdrawals from profit sharing plans? .....	1-4

### Hardship Distributions

Q 1:4	May a profit sharing or stock bonus plan distribute all or part of a participant's vested account balance because of a hardship? .....	1-4
Q 1:5	How is a hardship distribution from a profit sharing or stock bonus plan taxed? .....	1-5
Q 1:6	May a 401(k) plan make hardship distributions? .....	1-5
Q 1:7	When is a distribution from a 401(k) plan made on account of a hardship? .....	1-6
Q 1:8	Are there any other limitations on the amount that may be distributed from a 401(k) plan on account of a hardship? .....	1-7
Q 1:9	What is the maximum distributable amount? .....	1-7
Q 1:10	How is it determined whether an employee has an "immediate and heavy financial need"? .....	1-8
Q 1:11	Are there any instances in which the 401(k) plan need not weigh all of the relevant facts and circumstances to determine whether the employee has an immediate and heavy financial need? .....	1-8
Q 1:12	How does a 401(k) plan determine whether the amount of a distribution is necessary to satisfy the financial need caused by the hardship? .....	1-9

<b>Q 1:13</b>	Are there circumstances under which a 401(k) plan may deem a distribution to be necessary? .....	<b>1-10</b>
---------------	--	-------------

### **Pension Plans**

<b>Q 1:14</b>	What are the rules for in-service distributions from pension plans? .....	<b>1-11</b>
<b>Q 1:15</b>	When must a participant start receiving pension benefits while still employed? .....	<b>1-12</b>
<b>Q 1:16</b>	Under what circumstances may in-service distributions be made from a qualified pension plan? .....	<b>1-12</b>
<b>Q 1:17</b>	How may in-service distributions be paid from a pension plan? .....	<b>1-16</b>
<b>Q 1:18</b>	Must benefits continue to accrue under a pension plan after an actively employed participant receives his or her normal retirement benefit? .....	<b>1-16</b>
<b>Q 1:19</b>	How must benefits continue to accrue under a defined benefit pension plan for participants who continue to work after the plan's normal retirement age? .....	<b>1-16</b>
<b>Q 1:20</b>	Must contributions continue to be made under a defined contribution pension plan for participants who continue to work after the plan's normal retirement age? .....	<b>1-16</b>
<b>Q 1:21</b>	Will a participant who receives a single-sum distribution from a pension plan after reaching normal retirement age, but before termination of employment, be entitled to lump-sum tax treatment? .....	<b>1-17</b>

### **Employee Stock Ownership Plans**

<b>Q 1:22</b>	When may an ESOP make an in-service distribution? .....	<b>1-17</b>
<b>Q 1:23</b>	What investment diversification requirements apply to an ESOP? .....	<b>1-18</b>
<b>Q 1:24</b>	Who is a qualified participant for these purposes? .....	<b>1-18</b>
<b>Q 1:25</b>	What is the qualified election period for these purposes? .....	<b>1-18</b>
<b>Q 1:26</b>	How does an ESOP meet the diversification requirements? .....	<b>1-19</b>
<b>Q 1:27</b>	Which employer securities are subject to the diversification requirement? .....	<b>1-19</b>
<b>Q 1:28</b>	Are there any exceptions to the diversification requirement for employer securities acquired or contributed to a TRASOP? .....	<b>1-19</b>
<b>Q 1:29</b>	Are there some circumstances when employer securities acquired after December 31, 1986, are treated as acquired by, or contributed to, an ESOP on or before December 31, 1986? .....	<b>1-20</b>
<b>Q 1:30</b>	Are there any simplified methods for determining the number of employer securities subject to the diversification rules? .....	<b>1-20</b>

## List of Questions

---

<b>Q 1:31</b>	Are small account balances subject to the diversification requirements? .....	<b>1-21</b>
<b>Q 1:32</b>	What portion of a qualified participant's account is subject to the diversification requirement? .....	<b>1-21</b>
<b>Q 1:33</b>	May an ESOP permit the diversification of amounts in excess of those required? .....	<b>1-22</b>
<b>Q 1:34</b>	May the diversification requirement be satisfied by transferring shares to another defined contribution plan of the employer? .....	<b>1-22</b>
<b>Q 1:35</b>	What are the requirements for a qualified transfer? .....	<b>1-22</b>
<b>Q 1:36</b>	Must the transferee defined contribution plan comply with the safe harbor described in ERISA Section 404(c)? .....	<b>1-23</b>
<b>Q 1:37</b>	How are employer securities valued for purposes of the diversification requirement? .....	<b>1-23</b>
<b>Q 1:38</b>	Who is an independent appraiser? .....	<b>1-23</b>
<b>Q 1:39</b>	May amounts distributed as part of the diversification election be rolled over to an eligible retirement plan? .....	<b>1-24</b>
<b>Q 1:40</b>	How are dividends on employer securities handled in an ESOP? .....	<b>1-24</b>
<b>Q 1:41</b>	What is the tax consequence if the employer pays dividends on employer securities directly to the participant? .....	<b>1-24</b>
<b>Q 1:42</b>	How may dividends on ESOP shares be distributed to plan participants? .....	<b>1-24</b>
<b>Q 1:43</b>	Are dividends paid from an ESOP to plan participants subject to the 10 percent additional income tax on early distributions? .....	<b>1-25</b>
<b>Q 1:44</b>	Are dividends paid from an ESOP subject to spousal consent if the dividend exceeds \$5,000? .....	<b>1-25</b>
<b>Q 1:45</b>	Are dividends paid from an ESOP subject to mandatory withholding? .....	<b>1-25</b>

## Chapter 2 Loans

### **General Rule: Loans from Qualified Employer Plans Treated as Taxable Distributions**

<b>Q 2:1</b>	What are some of the most significant plan loan rules? .....	<b>2-1</b>
<b>Q 2:2</b>	What is a qualified employer plan for purposes of Code Section 72(p)? .....	<b>2-4</b>
<b>Q 2:3</b>	If a loan from a qualified employer plan to a participant or beneficiary fails to meet the requirements of Code Section 72(p), when does a deemed distribution occur? .....	<b>2-4</b>
<b>Q 2:4</b>	What limits does the Code impose on the amount of a plan loan? .....	<b>2-6</b>
<b>Q 2:5</b>	What restrictions does the Code impose on the term of a plan loan? .....	<b>2-7</b>

<b>Q 2:6</b>	What restrictions does the Code impose on plan loan repayments (amortization)? .....	<b>2-8</b>
<b>Q 2:7</b>	If a participant fails to make the installment payments required under the terms of a loan that satisfied all the plan loan rules when it was made, when does a deemed distribution occur, and what is the amount of the deemed distribution? .....	<b>2-8</b>
<b>Q 2:8</b>	Does the level amortization requirement apply when a participant is on a leave of absence without pay? .....	<b>2-9</b>
<b>Q 2:9</b>	Can a plan loan be accelerated if the participant terminates employment before the loan is fully repaid? .....	<b>2-10</b>
<b>Q 2:10</b>	Can a participant carry an outstanding loan balance even after he or she terminates employment? .....	<b>2-11</b>

### **Treatment of Distributions Attributable to Qualified Retirement Plan Loans**

<b>Q 2:11</b>	Can a loan to a participant from a qualified retirement plan be taxed as a distribution? .....	<b>2-11</b>
<b>Q 2:12</b>	When is a distribution attributable to a plan loan an eligible rollover distribution? .....	<b>2-14</b>
<b>Q 2:13</b>	What is the federal income tax treatment of deemed distributions? .....	<b>2-15</b>
<b>Q 2:14</b>	How is the amount includible in income as a result of a deemed distribution under Code Section 72(p) required to be reported? .....	<b>2-15</b>
<b>Q 2:15</b>	If there is a deemed distribution under Code Section 72(p), is the interest that accrues thereafter on the amount of the deemed distribution an indirect loan for income tax purposes? .....	<b>2-15</b>
<b>Q 2:16</b>	Is a participant's tax basis under the plan increased if the participant repays the loan after a deemed distribution? .....	<b>2-16</b>
<b>Q 2:17</b>	What withholding rules apply to plan loans? .....	<b>2-17</b>
<b>Q 2:18</b>	May a plan loan note be transferred from one qualified plan to another when there is a transfer of assets and liabilities between plans? .....	<b>2-18</b>
<b>Q 2:19</b>	May a plan loan note be included in a direct rollover of an eligible rollover distribution from one qualified plan to another? .....	<b>2-18</b>
<b>Q 2:20</b>	What are the income tax consequences if an amount is transferred from a qualified employer plan to a participant or a beneficiary as a loan, but there is an express or tacit understanding that the loan will not be repaid? .....	<b>2-18</b>
<b>Q 2:21</b>	If a loan fails to satisfy the plan loan rules under Code Section 72(p) and is a prohibited transaction under Code Section 4975, is the deemed distribution of the loan under Code Section 72(p) a correction of the prohibited transaction? .....	<b>2-19</b>
<b>Q 2:22</b>	If a qualified employer plan maintains a program to invest in residential mortgages, are loans made pursuant to that program subject to the plan loan rules under Code Section 72(p)? .....	<b>2-19</b>

## List of Questions

---

<b>Q 2:23</b>	May a participant refinance an outstanding loan or have more than one loan outstanding from a plan? .....	<b>2-20</b>
<b>Q 2:24</b>	When did Code Section 72(p) and the related final Treasury regulations become effective? .....	<b>2-22</b>

### **Special Loan Rules for Certain Hurricane Victims**

<b>Q 2:25</b>	Were there any special plan loan rules that applied to taxpayers who suffered economic losses in 2005 as a result of Hurricane Katrina, Rita, or Wilma? .....	<b>2-26</b>
<b>Q 2:26</b>	Were there any special plan loan rules for taxpayers who were adversely affected by Hurricane Sandy? .....	<b>2-27</b>

### **Loans As Prohibited Transactions**

<b>Q 2:27</b>	What are the prohibited transaction rules under the Code that apply to loans from tax-qualified retirement plans? .....	<b>2-28</b>
<b>Q 2:28</b>	What are the prohibited transaction rules under ERISA that apply to plan loans from ERISA plans? .....	<b>2-30</b>
<b>Q 2:29</b>	What relief does ERISA Section 408(b)(1) provide from ERISA's prohibited transaction provisions? .....	<b>2-30</b>
<b>Q 2:30</b>	What is a participant loan for purposes of ERISA's prohibited transaction rules? .....	<b>2-31</b>
<b>Q 2:31</b>	When are plan loans considered to be available to participants and beneficiaries on a reasonably equivalent basis? .....	<b>2-34</b>
<b>Q 2:32</b>	When will plan loans not be considered disproportionately available to highly compensated employees, officers, or shareholders? .....	<b>2-35</b>
<b>Q 2:33</b>	Will a plan administrator's decision to disallow a participant loan based on a reasonable question concerning the legality of the loan be considered a failure to provide loans to all participants on a reasonably equivalent basis? .....	<b>2-36</b>
<b>Q 2:34</b>	Must a plan contain specific provisions if it has a loan program? .....	<b>2-36</b>
<b>Q 2:35</b>	When is a plan loan considered to bear a reasonable rate of interest? .....	<b>2-37</b>
<b>Q 2:36</b>	When is a plan loan considered to be adequately secured? .....	<b>2-38</b>
<b>Q 2:37</b>	When do participant loan repayments that are withheld from employee wages by an employer become "plan assets" subject to the prohibited transaction rules under ERISA Section 406? .....	<b>2-39</b>

### **Spousal Consent for Loans Made by Plans Subject to the Survivor Annuity Requirements**

<b>Q 2:38</b>	Must spousal consent be obtained before a loan can be made from a plan that is subject to the survivor annuity requirements? .....	<b>2-39</b>
---------------	--	-------------

<b>Q 2:39</b>	If spousal consent is obtained (or is not required) when the plan loan is made, must it be given when the unpaid loan balance is offset against the participant's accrued benefit in the event of a default? .....	<b>2-40</b>
<b>Q 2:40</b>	If an existing plan loan is renegotiated, extended, renewed, or otherwise revised after it is made, is the renegotiation of the loan treated as the making of a new loan under the spousal consent requirements? .....	<b>2-40</b>
<b>Q 2:41</b>	If a plan loan is outstanding when a participant dies and the loan is secured by the participant's accrued benefit under the plan, will that affect the amount of the QPSA or the survivor annuity portion of the QJSA that is payable on account of his or her death? .....	<b>2-40</b>

### **Federal Truth-in-Lending Act**

<b>Q 2:42</b>	In what situations does the federal Truth-in-Lending Act apply to a plan that makes plan loans? .....	<b>2-41</b>
---------------	---	-------------

## **Chapter 3 QDROs and Other Exceptions to the Anti-Alienation Rules**

### **General Rules and Definitions**

<b>Q 3:1</b>	Do the ERISA and Code rules prohibiting the assignment or alienation of a participant's benefits under a qualified retirement plan apply to QDROs? .....	<b>3-2</b>
<b>Q 3:2</b>	What is a DRO? .....	<b>3-3</b>
<b>Q 3:3</b>	May a QDRO be part of a divorce decree or property settlement? .....	<b>3-3</b>
<b>Q 3:4</b>	Must a DRO be issued as part of a divorce proceeding to be a QDRO? .....	<b>3-4</b>
<b>Q 3:5</b>	What is a QDRO? .....	<b>3-4</b>
<b>Q 3:6</b>	Who can be an alternate payee? .....	<b>3-5</b>
<b>Q 3:7</b>	May a QDRO provide for payment to the guardian of an alternate payee? .....	<b>3-5</b>
<b>Q 3:8</b>	Will a DRO fail to be a QDRO if it requires that benefits in pay status be paid to a state agency, as the agent of the alternate payee? .....	<b>3-5</b>
<b>Q 3:9</b>	Can a QDRO cover more than one retirement plan? .....	<b>3-6</b>
<b>Q 3:10</b>	Will a DRO fail to be a QDRO if it does not specify the participant's or alternate payee's last known mailing address, if the plan administrator has reason to know the addresses independently of the order? .....	<b>3-6</b>
<b>Q 3:11</b>	Must all QDROs have the same provisions? .....	<b>3-6</b>
<b>Q 3:12</b>	Who determines whether an order is a QDRO? .....	<b>3-6</b>
<b>Q 3:13</b>	Who is the administrator of the retirement plan? .....	<b>3-7</b>

## List of Questions

---

<b>Q 3:14</b>	Will the DOL issue advisory opinions on whether a DRO is a QDRO? .....	<b>3-7</b>
<b>Q 3:15</b>	What is the best way to divide a participant's retirement plan benefits in a QDRO? .....	<b>3-7</b>
<b>Q 3:16</b>	How much of a participant's retirement plan benefits may be provided to an alternate payee under a QDRO? .....	<b>3-8</b>
<b>Q 3:17</b>	Why are the reasons for dividing the participant's retirement plan benefits important? .....	<b>3-8</b>
<b>Q 3:18</b>	In deciding how to divide a participant's retirement plan benefits, why is understanding the type of retirement plan important? .....	<b>3-9</b>
<b>Q 3:19</b>	What are survivor benefits and why should a QDRO take them into account? .....	<b>3-10</b>
<b>Q 3:20</b>	May a separate interest QDRO specify the form in which the alternate payee's benefits will be paid? .....	<b>3-11</b>
<b>Q 3:21</b>	When may the alternate payee receive the benefits assigned under a QDRO? .....	<b>3-12</b>
<b>Q 3:22</b>	Will a DRO fail to be a QDRO solely because the DRO is issued after, or revises, another DRO or QDRO, or solely because of the time at which it is issued? .....	<b>3-12</b>

### **Form or Amount of Benefits May Not Be Altered**

<b>Q 3:23</b>	Will a DRO be a QDRO if it alters the amount or form of benefits otherwise provided to the participant under a retirement plan? .....	<b>3-15</b>
<b>Q 3:24</b>	Are there circumstances where a QDRO may alter the payment of retirement plan benefits? .....	<b>3-16</b>
<b>Q 3:25</b>	What is the earliest retirement age for purposes of the rule that allows a QDRO, in certain limited circumstances, to change the timing of benefit payments under a plan? .....	<b>3-16</b>
<b>Q 3:26</b>	Can a QDRO require a participant's former spouse to be treated as his or her surviving spouse for purposes of determining survivor benefits under a retirement plan? .....	<b>3-18</b>

### **How QDROs Affect Other Retirement Plan Benefits; Section 415 Requirements**

<b>Q 3:27</b>	Is a retirement plan required to provide additional vesting or benefits because of a QDRO? .....	<b>3-19</b>
<b>Q 3:28</b>	May a QDRO provide the alternate payee with a right to designate a beneficiary that is greater than the participant's? .....	<b>3-19</b>
<b>Q 3:29</b>	To whom is the participant's retirement plan benefit paid if the former spouse, who is treated as the current spouse under a QDRO, dies before the participant's annuity starting date? .....	<b>3-20</b>

<b>Q 3:30</b>	How are the annual limitations on contributions and benefits applied in cases where a participant's retirement plan benefits are awarded to an alternate payee under a QDRO? .....	<b>3-20</b>
---------------	--	-------------

### **Alternate Payee's Retirement Plan Benefits Must Be Clearly Specified**

<b>Q 3:31</b>	Must a QDRO clearly specify the amount or percentage (or the manner of determining the amount or percentage) of a participant's benefit under a retirement plan that is to be paid to each alternate payee named in the QDRO?.....	<b>3-20</b>
<b>Q 3:32</b>	How is the amount available to an alternate payee under a defined contribution plan determined? .....	<b>3-20</b>
<b>Q 3:33</b>	How is the amount available to an alternate payee under a defined benefit plan determined? .....	<b>3-22</b>
<b>Q 3:34</b>	Can a DRO that changes a prior assignment of retirement plan benefits to an alternate payee reduce the amount assigned to the alternate payee and still be a QDRO? .....	<b>3-23</b>

### **QDROs Must Specify the Benefit Period and the Retirement Plan**

<b>Q 3:35</b>	Must a QDRO clearly specify the number of payments or the period to which the order applies? .....	<b>3-23</b>
<b>Q 3:36</b>	Must a QDRO clearly specify each retirement plan to which the order applies? .....	<b>3-23</b>
<b>Q 3:37</b>	Will a DRO be a QDRO if it directs that retirement plan benefits must be paid to an alternate payee when those benefits have already been determined to be payable to another alternate payee under a prior QDRO?.....	<b>3-24</b>

### **Retirement Plan Provisions and Written Procedures for Determining the Qualified Status of a DRO**

<b>Q 3:38</b>	Must a retirement plan document be amended to implement the QDRO rules?.....	<b>3-24</b>
<b>Q 3:39</b>	Must a retirement plan establish reasonable, written procedures to determine the qualified status of DROs and to administer distributions under DROs that are determined to be QDROs? .....	<b>3-24</b>
<b>Q 3:40</b>	Are there other matters that should be addressed in a retirement plan's written QDRO procedure?.....	<b>3-25</b>
<b>Q 3:41</b>	What information is a plan administrator required to provide a prospective alternate payee before the administrator receives a DRO?.....	<b>3-25</b>
<b>Q 3:42</b>	May a plan administrator allocate QDRO determination expenses to the retirement plan account of the participant or beneficiary seeking the determination?.....	<b>3-26</b>

## List of Questions

---

<b>Q 3:43</b>	May a plan administrator provide parties with a model form or forms to assist in the preparation of a QDRO?.....	<b>3-26</b>
<b>Q 3:44</b>	In determining the qualified status of a DRO, is the plan administrator required to determine the validity of the order under state domestic relations law? .....	<b>3-26</b>
<b>Q 3:45</b>	Is a plan administrator required to reject a DRO as defective if the order fails to specify factual identifying information that is easily obtainable by the plan administrator?.....	<b>3-27</b>

### **Procedures to Follow After a Retirement Plan Receives a DRO**

<b>Q 3:46</b>	What must the plan administrator do if a DRO is received? .....	<b>3-27</b>
<b>Q 3:47</b>	How long may the plan administrator take to determine whether a DRO is a QDRO? .....	<b>3-28</b>
<b>Q 3:48</b>	What must the plan administrator do during the determination process to protect against wrongly paying retirement benefits to the participant that would be paid to the alternate payee if the DRO had been determined to be a QDRO?.....	<b>3-28</b>
<b>Q 3:49</b>	What kind of notice must a plan administrator provide following a QDRO determination?.....	<b>3-30</b>
<b>Q 3:50</b>	What effect does an order that a plan administrator has determined to be a QDRO have on the administration of the retirement plan?.....	<b>3-31</b>
<b>Q 3:51</b>	What disclosure rights does an alternate payee have under a QDRO? .....	<b>3-31</b>
<b>Q 3:52</b>	What happens to the rights created by a QDRO if the retirement plan to which the QDRO applies is amended, merged into another plan, or is maintained by a successor employer? .....	<b>3-31</b>
<b>Q 3:53</b>	What happens to the rights created by a QDRO if a retirement plan is terminated? .....	<b>3-31</b>
<b>Q 3:54</b>	What happens to the rights created by a QDRO if a defined benefit plan is terminated and the PBGC becomes trustee of the plan? .....	<b>3-32</b>

### **Taxation of Retirement Plan Distributions Made Under QDROs**

<b>Q 3:55</b>	Are distributions of retirement plan benefits that are paid to a participant's spouse or former spouse who is an alternate payee under a QDRO includible in the spouse's or former spouse's income? .....	<b>3-32</b>
<b>Q 3:56</b>	Are distributions of retirement plan benefits that are paid to a nonspouse alternate payee under a QDRO includible in his or her income? .....	<b>3-33</b>

<b>Q 3:57</b>	How is the investment in the contract (if any) under a retirement plan allocated between the participant and his or her spouse or former spouse who is an alternate payee under a QDRO?.....	<b>3-33</b>
<b>Q 3:58</b>	How is the investment in the contract (if any) allocated between the participant and any nonspouse alternate payee under a QDRO?.....	<b>3-34</b>
<b>Q 3:59</b>	Will the participant be liable to pay the 10 percent additional income tax on any early distributions paid to an alternate payee under a QDRO? .....	<b>3-34</b>
<b>Q 3:60</b>	May a spouse or former spouse alternate payee make a tax-free rollover to an eligible retirement plan of part or all of an eligible retirement distribution that is paid pursuant to a QDRO?.....	<b>3-35</b>
<b>Q 3:61</b>	Is a spouse or former spouse who is an alternate payee under a QDRO eligible for income-averaging treatment for any lump-sum distributions under a QDRO?.....	<b>3-36</b>

### **Official Guidance on Drafting, Reviewing, and Administering QDROs**

<b>Q 3:62</b>	Is there any official guidance from the federal government on how to draft, review, and administer a QDRO?.....	<b>3-36</b>
---------------	---	-------------

### **Permitted Offsets of Retirement Plan Benefits**

<b>Q 3:63</b>	Are there other circumstances, in addition to QDROs, in which a participant's retirement plan benefits may be assigned or alienated, despite ERISA and the Code's anti-alienation rules? .....	<b>3-38</b>
---------------	--	-------------

## **Chapter 4 Required Minimum Distributions**

### **Waiver of 2009 Required Minimum Distributions**

<b>Q 4:1</b>	Were required minimum distributions waived for 2009 for certain plans?.....	<b>4-3</b>
--------------	---	------------

### **Minimum Distribution Requirement in General**

<b>Q 4:2</b>	What retirement plans are subject to the required minimum distribution (RMD) rules? .....	<b>4-4</b>
<b>Q 4:3</b>	Which employee account balances and benefits held under a Section 401(a) qualified retirement plan are subject to the RMD rules? .....	<b>4-5</b>
<b>Q 4:4</b>	What specific provisions must a qualified retirement plan document contain in order to satisfy the RMD rules?.....	<b>4-6</b>

### Distributions Beginning During a Participant's Lifetime

<b>Q 4:5</b>	In the case of distributions beginning during a participant's lifetime, how must the participant's entire interest be distributed in order to satisfy Code Section 401(a)(9)(A)? .....	<b>4-6</b>
<b>Q 4:6</b>	What does the term <i>required beginning date (RBD)</i> mean? .....	<b>4-7</b>
<b>Q 4:7</b>	When does a participant attain age 70½? .....	<b>4-8</b>
<b>Q 4:8</b>	Must distributions made before a participant's RBD satisfy the RMD rules? .....	<b>4-8</b>
<b>Q 4:9</b>	If distributions have begun to a participant during the participant's lifetime in accordance with the life or life expectancy method of Code Section 401(a)(9)(A)(ii), how must distributions be made after the participant's death? .....	<b>4-8</b>
<b>Q 4:10</b>	For purposes of Code Section 401(a)(9)(B), when are distributions considered to have begun to a participant in accordance with the life or life expectancy method of Code Section 401(a)(9)(A)(ii)? .....	<b>4-9</b>

### Death Before Required Beginning Date

<b>Q 4:11</b>	If a participant dies before his or her RBD, how must the participant's entire interest be distributed in order to satisfy the RMD rules of Code Section 401(a)(9)? .....	<b>4-9</b>
<b>Q 4:12</b>	What is the last date for distributing a participant's entire interest in order to satisfy the five-year rule? .....	<b>4-10</b>
<b>Q 4:13</b>	When must distributions begin in order to satisfy the life expectancy rule? .....	<b>4-10</b>
<b>Q 4:14</b>	How is it determined whether the five-year rule or the life expectancy rule applies to a distribution? .....	<b>4-11</b>
<b>Q 4:15</b>	If a participant's surviving spouse is the participant's sole designated beneficiary and the spouse dies after the participant, but before distributions have begun, how is the participant's interest to be distributed? .....	<b>4-11</b>
<b>Q 4:16</b>	For these purposes, when are distributions considered to have begun to the surviving spouse? .....	<b>4-12</b>

### Determination of the Designated Beneficiary

<b>Q 4:17</b>	Who is a designated beneficiary? .....	<b>4-12</b>
<b>Q 4:18</b>	Must a participant (or the participant's spouse) make an affirmative election specifying a person to be a designated beneficiary for purposes of the RMD rules? .....	<b>4-13</b>
<b>Q 4:19</b>	May a person other than an individual be a designated beneficiary for purposes of the RMD rules? .....	<b>4-13</b>
<b>Q 4:20</b>	When is the designated beneficiary determined? .....	<b>4-13</b>
<b>Q 4:21</b>	If a trust is named as a beneficiary of a participant, are there any circumstances that would permit the beneficiaries of the trust to be treated as the participant's designated beneficiaries for purposes of the RMD rules? .....	<b>4-14</b>

<b>Q 4:22</b>	When a trust is named as a beneficiary of a participant, what documentation must be provided to the plan administrator? .....	<b>4-15</b>
---------------	---	-------------

### **Required Minimum Distributions from Defined Contribution Plans**

<b>Q 4:23</b>	If a participant's benefit is in the form of an individual account under a defined contribution plan, what is the amount required to be distributed for each calendar year? .....	<b>4-16</b>
<b>Q 4:24</b>	How may an annuity contract be used to satisfy the minimum distribution requirement for an individual account under a defined contribution plan? .....	<b>4-17</b>
<b>Q 4:25</b>	If a participant's benefit is in the form of an individual account and, in any calendar year, the amount distributed exceeds the RMD, will credit be given in subsequent calendar years for such excess distribution? .....	<b>4-18</b>
<b>Q 4:26</b>	What amount is used for determining a participant's RMD in the case of an individual account? .....	<b>4-18</b>
<b>Q 4:27</b>	What is the applicable distribution period for RMDs during a participant's lifetime? .....	<b>4-18</b>
<b>Q 4:28</b>	What is the applicable distribution period for RMDs after a participant's death? .....	<b>4-21</b>
<b>Q 4:29</b>	What life expectancies must be used for purposes of determining RMDs under Code Section 401(a)(9)? .....	<b>4-22</b>
<b>Q 4:30</b>	If a participant has more than one designated beneficiary, which designated beneficiary's life expectancy will be used to determine the applicable distribution period? .....	<b>4-22</b>
<b>Q 4:31</b>	If a portion of a participant's individual account is not vested as of the participant's RBD, how is the determination of the RMD affected? .....	<b>4-25</b>
<b>Q 4:32</b>	Which amounts distributed from an individual account are or are not taken into account in determining whether the required minimum distribution rules of Code Section 401(a)(9) are satisfied? .....	<b>4-25</b>

### **Required Minimum Distributions from Defined Benefit Plans and Annuity Contracts**

<b>Q 4:33</b>	How must distributions under a defined benefit plan be paid in order to satisfy the RMD rules? .....	<b>4-26</b>
<b>Q 4:34</b>	How must distributions in the form of a life (or joint and survivor) annuity be made in order to satisfy the minimum distribution incidental benefit (MDIB) requirement and the distribution component of the incidental benefit requirement? .....	<b>4-29</b>
<b>Q 4:35</b>	How long is a period certain under a defined benefit plan permitted to extend? .....	<b>4-31</b>

## List of Questions

---

<b>Q 4:36</b>	Will a plan fail to satisfy the RMD rules merely because distributions are made from an annuity contract purchased from an insurance company? .....	<b>4-32</b>
<b>Q 4:37</b>	In the case of annuity distributions under a defined benefit plan, how must additional benefits that accrue after the participant's first distribution calendar year be distributed in order to satisfy the RMD rules? .....	<b>4-32</b>
<b>Q 4:38</b>	If a portion of a participant's benefit is not vested as of December 31 of a distribution calendar year, how is the determination of the RMD affected? .....	<b>4-33</b>
<b>Q 4:39</b>	If a participant (other than a 5-percent owner) retires after the calendar year in which the participant attains age 70½, for what period must the participant's accrued benefit under a defined benefit plan be actuarially increased? .....	<b>4-33</b>
<b>Q 4:40</b>	What amount of actuarial increase is required? .....	<b>4-34</b>
<b>Q 4:41</b>	How does the actuarial increase required under Code Section 401(a)(9)(C)(iii) relate to the actuarial increase required under Code Section 411? .....	<b>4-34</b>
<b>Q 4:42</b>	What rule applies if distributions to a participant start on a date before the participant's RBD over a period permitted under the life or life expectancy method of Code Section 401(a)(9)(A)(ii) and the distribution form is an annuity? .....	<b>4-34</b>
<b>Q 4:43</b>	What rule applies if distributions start to the surviving spouse of a participant over a period permitted under Code Section 401(a)(9)(B)(iii)(II) before the date on which distributions are required to start and the distribution form is an annuity? .....	<b>4-35</b>
<b>Q 4:44</b>	In the case of an annuity contract under an individual account plan that has not yet been annuitized, how is Code Section 401(a)(9) satisfied with respect to the participant's or beneficiary's entire interest under the annuity contract for the period prior to the date annuity payments begin? .....	<b>4-35</b>
<b>Q 4:45</b>	When can an annuity payment period be changed? .....	<b>4-36</b>
<b>Q 4:46</b>	Are annuity payments permitted to increase? .....	<b>4-39</b>
<b>Q 4:47</b>	Are there special rules applicable to payments made under a defined benefit plan or annuity contract to a surviving child? .....	<b>4-47</b>
<b>Q 4:48</b>	Will a governmental plan fail to satisfy the RMD rules if annuity payments under the plan do not satisfy Treasury Regulations Section 1.401(a)(9)-6? .....	<b>4-48</b>
<b>Q 4:49</b>	What were the rules for determining RMDs for defined benefit plans and annuity contracts for calendar years 2003, 2004, and 2005? .....	<b>4-48</b>

### **Rollovers and Transfers**

<b>Q 4:50</b>	If an amount is distributed by one plan and rolled over to another plan, is the RMD under the distributing plan affected by the rollover? .....	<b>4-48</b>
---------------	---	-------------

<b>Q 4:51</b>	If an amount is distributed by one plan and rolled over to another plan, how are the benefit and the RMD under the receiving plan affected? .....	<b>4-48</b>
<b>Q 4:52</b>	What special rules apply for satisfying the RMD requirement or determining the participant's benefit under the transferor plan? .....	<b>4-49</b>
<b>Q 4:53</b>	If a participant's benefit is transferred from one plan to another plan, how are the benefit and the RMD under the transferee plan affected? .....	<b>4-49</b>
<b>Q 4:54</b>	How is a spinoff, merger, or consolidation treated for purposes of determining a participant's benefit and RMD? .....	<b>4-50</b>

### **Special Rules**

<b>Q 4:55</b>	What distribution rules apply if an individual is a participant in more than one plan? .....	<b>4-50</b>
<b>Q 4:56</b>	If a participant's benefit under a defined contribution plan is divided into separate accounts (or segregated shares in the case of a defined benefit plan), do the distribution rules of Code Section 401(a)(9) apply separately to each separate account (or segregated share)? .....	<b>4-50</b>
<b>Q 4:57</b>	What are separate accounts for purposes of Code Section 401(a)(9)? .....	<b>4-50</b>
<b>Q 4:58</b>	Can required distributions be made even if a participant or spouse have not consented to a distribution? .....	<b>4-51</b>
<b>Q 4:59</b>	Who is considered to be a participant's spouse or surviving spouse? .....	<b>4-51</b>
<b>Q 4:60</b>	What special rules apply to the distribution of all or a portion of a participant's benefit payable to an alternate payee pursuant to a QDRO? .....	<b>4-52</b>
<b>Q 4:61</b>	Will a plan fail to satisfy Code Section 401(a)(9) merely because it fails to distribute an amount otherwise required to be distributed during the period in which the issue of whether a domestic relations order is a QDRO is being determined? .....	<b>4-53</b>
<b>Q 4:62</b>	Will a plan fail to satisfy the Code if an individual's distribution is less than the amount otherwise required because distributions are being paid under an annuity contract issued by a life insurance company in state insurer delinquency proceedings and have been reduced or suspended because of those proceedings? .....	<b>4-53</b>
<b>Q 4:63</b>	Will a plan fail to qualify as a pension plan solely because it permits distributions to begin on or after April 1 of the calendar year following the calendar year in which the participant attains age 70½ even though the participant has not retired or attained the normal retirement age under the plan as of that date? .....	<b>4-54</b>
<b>Q 4:64</b>	Is the distribution of an annuity contract a distribution for purposes of Code Section 401(a)(9)? .....	<b>4-54</b>